

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:08CR386 HEA
)	
DONALD ROBINSON,)	
)	
Defendant.)	

ORIGINAL, MEMORANDUM AND ORDER

This matter is before the Court on the Memorandum and Recommendation, [Doc. No. 28], of United States Magistrate Judge Mary Ann L. Medler, pursuant to 28 U.S.C. § 636(b). Judge Medler recommends that Defendant's Motion to Suppress Physical Evidence and Observations, [Doc. No. 18], be denied. Defendant has filed Objections to the Memorandum and Recommendation.

When a party objects to a magistrate judge's report and recommendation, the Court must conduct a *de novo* review of the portions of the report, findings, or recommendations to which the party objected. See *United States v. Lothridge*, 324 F.3d 599, 600 (8th Cir.2003) (citing 28 U.S.C. § 636(b)(1)). This includes a *de novo* review of the magistrate's findings of fact, including any credibility determinations. *Id.* The court has reviewed the entire record, including listening to the audio recording of the hearing held on September 11, 2008.

Discussion

Defendant objects to Judge Medler's findings as "clearly erroneous and contrary to existing constitutional and statutory case law" and objects generally to each and every finding. Furthermore, Defendant specifically objects to Judge Medler's finding that the search warrants in question specifically identified the items authorized to be seized as required by the Fourth Amendment and Statutory precedents. The language of the search warrant directing the officers to seize "said evidence" did not in anyway specifically identify the items to be seized.

Judge Medler's Report and Recommendation thoroughly discusses each of Defendant's arguments regarding the seized items and the validity of the search warrants. Specifically, with respect to the items to be seized, the Search Warrants are based on the finding of probable cause supported by the Complaints and Affidavits presented to the issuing judges. The Complaints and Affidavits both included the following:

Narcotic Drugs, more specifically listed in the attached affidavits, including but not limited to marijuana, methamphetamine and miscellaneous drug paraphernalia, all as defined under Chapter 195 R.S.Mo.

The terminology used in the Search Warrants, *i.e.*, "said evidence," clearly refers to evidence described in the Complaints and Affidavits. As discussed in the Report and Recommendation, the Complaints and Affidavits set forth the items to be seized with sufficient particularity and satisfy the Fourth Amendment.

Defendant's objections are overruled.

Conclusion

Having conducted a *de novo* review of the Motion to Suppress Physical Evidence and Observations and the record before the court, Defendant's objections are overruled. The Report and Recommendation contains a very thorough analysis of the facts and applicable law. The Court, therefore will adopt Judge Medler's Recommendation.

Accordingly,

IT IS ORDERED that Defendant's Motion to Suppress Physical Evidence and Observations, [Doc. 18], is **DENIED**.

Dated this 29th day of October, 2008.

A handwritten signature in cursive script, appearing to read "Henry Edward Autrey", written over a horizontal line.

HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE